

**REMARKS**

In view of the above Amendment, Applicants believe the pending application is in condition for allowance.

Claims 1, 3-11, and 13-22 are pending in the application. Claims 1, 11, 17, 21 and 22 have been amended.

**Office Action Dated April 11, 2008**

Applicants submit that the Office Action dated April 11, 2008 contains in page 16, line 5 and page 18, line 5 from the bottom, statements that are not directed to the present invention.

Therefore, no response has been made in this Reply in response to the Examiner's statements/comments in the foregoing pages of the Office Action.

**Claim Rejections - 35 U.S.C. § 112**

Claims 21 and 22 have been rejected under 35 U.S.C. § 112, second paragraph, because of some informalities.

Claims 21 and 22 have been amended to further define that "*k* represents current time, and *d(k)* represents the momentary state of the construction machinery" to overcome this rejection. Support for these features is disclosed in page 30, lines 18-19 and in page 25, lines 21-24 of the specification of the present application.

The Examiner is respectfully requested to reconsider and withdraw this rejection.

**Claim Rejections - 35 U.S.C. § 103**

(a) Claims 1, 3-5, 7-11, 13, and 15-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Delgado (Control of Nonlinear System Using a Self-Organizing Neural Network) in view of Otte (U.S. Patent No. 6,314,413). This rejection is respectfully traversed.

In page 19 of the Office Action, the Examiner states:

Should applicant choose to amend, the Examiner respectfully suggests that applicant consider including a statement along the lines of “wherein the operation modes are representative of the operation of construction machinery” . . . and “wherein the detecting means consists of one or more sensors” . . . in claims 1 and 11 (The previously cited suggestion is not a recitation of allowable subject matter, but is rather subject matter disclosed by Applicants which was novel in view of the prior art of record. Furthermore, any amendments will require further search of the prior art.)

In view of these statements, claims 1 and 11 have been amended to include the foregoing limitations to overcome this rejection. Applicants note however, that the phrase “consists of one or more sensors” has been changed to --includes one or more sensors-- so that the detecting means is not construed to include only the “one or more sensors.”

Claims 3-5 and 7-10, variously dependent on claim 1, are allowable at least for their dependency on claim 1.

Claims 13 and 15-20, variously dependent on claim 11, are allowable at least for their dependency on claim 11.

Applicants also respectfully submit that claim 21, dependent on claim 1, is also allowable at least for its dependency on claim 1, and claim 22, dependent on claim 11, is allowable at least for its dependency on claim 11.

The Examiner is respectfully requested to reconsider and withdraw this rejection.

(b) Claims 6 and 14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Delgado and Otte in view of Ye (U.S. Patent No. 6,477,469). This rejection is respectfully traversed.

Claim 6, dependent on claim 1, is allowable at least for its dependency on claim 1.

Claim 14, dependent on claim 11, is allowable at least for its dependency on claim 11.

The Examiner is respectfully requested to reconsider and withdraw this rejection.

### **CONCLUSION**

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of the pending claims in the present application are respectfully requested.

The Examiner is respectfully requested to enter this Amendment After Final in that it raises no new issues. Alternatively, the Examiner is respectfully requested to enter this Amendment After Final in that it places the application in better form for Appeal.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Maki Hatsumi, Reg. No. 40,417 at

Application No. 10/560,585  
Amendment dated July 8, 2008  
Reply to Office Action of April 11, 2008

Docket No.: 1602-0201PUS1

the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.147; particularly, extension of time fees.

Dated: July 8, 2008

Respectfully submitted,

By 

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